IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.R.No.2313 of 2006
Date of decision: 18.1.2007

Nasir Ahmed Bhatti

…Petitioner

v.

State of Punjab and others

…..Respondents

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE H.S.BHALLA

Present Mr. G.S.Hooda, Advocate, for the petitioner.

ORDER:

This criminal revision petition has been filed by the complainant to challenge acquittal of respondent Nos. 2 to 4 and 8 of the charge under sections 302/364/382,/342,/323/148/149 IPC. Respondent Nos. 2 to 4 stand convicted under sections 148/302/149/323/149 IPC.

Complainant Nasir Ahmad Bhatti made a statement dated 15.4.2000 before Inspector Ranbir Singh to the effect that he was Maulvi of Ahmedia sect at Village Bhraman Majra, Sirhind. Nasar-ul-Haq of Nepal was member Ahmedia community and was working as a Maulvi at Jodhewal Basi, Ludhiana who was missing since 11.4.2000 at 5 PM. The complainant alongwith his companions went in a jeep to search Nasar-ul-Haq. When they went to Jama Masjid at Jagraon, one Usman Khan alongwith a Sikh young man armed with a weapon came near the jeep and kidnapped them and took them inside the Masjid, where the said Usman

Khan alongwith Sayed Jallaludin, Sabaudin, Mohd. Salim Mohd. Bashir were there. They were assaulted by Nanna, Mastkin, Munawar Ali, Inam-ul-Haq, Id Mohd.Karim with sticks, fists and kick blows. Usman Khan and armed Sikh young man also gave beatings to Abdul Rahim who became unconscious. Nanna gave a blow with a stick on the forehead of Abdul Rahim. Usman Khan gave kick blows on his chest and abdomen. Munawar Ali, Inam-ul-Haq, Id Mohd. Karim and other assailants also gave beatings to Abdul Rahim. Police came on the spot and rescued them. Munawar Ali, Inam-ul-Haq and Id.Mohd.Karim were arrested on the spot. Abdul Rahim was taken to the hospital where he died. The assailants belonged to other sect and were not tolerating the sect of the victims which had led to the incident.

After completing investigation, Munawar Ali, Inam-ul-haq, Id Mohd. Karim and Constable Jagdev Singh were challaned. Subsequently, Ubed-ur-Rehman @ Nanna, Mohd. Usman and Mastkin were also challaned. Both the cases were consolidated. Charges were framed.

Accused pleaded not guilty.

The prosecution examined Sayad Sabaudin PW1, Abdul Jallaludin PW2, Nasir Ahmed Bhatti, PW3, Dr. U.S.Sooch PW4, Bashir Mohd. PW5, ASI Gurmit Singh PW6, Inspector Karam Singh PW7, Milap Chand PW8, SI Gurpreet Singh PW9, ASI Shamsher Singh PW10, Dr. Charanjit Singh PW11, Inspector Ranbir Singh PW12.

In their statements under section 313 Cr.PC, the accused denied the prosecution allegations. Munawar Ali stated that on the day of occurrence, the witnesses and the deceased came in a jeep in the Jama Masjid and gave a 'lalkara' that Imam should be abducted and eliminated for spreading venom against Qadianis. Imam declared on loud speaker that Qadianis had attacked the Mosque, which led to 'melee'. Witnesses and deceased received injuries. Abdul Rahim was caused injuries by the police and on account of protest, the police planted a false case. Similar plea was raised by Inam-ul-Haq and Id. Mohd. Karim.

Accused Jagdev Singh stated that he was gunman of Atiq-ur-Rehman and was not present at the time of occurrence. He had gone to Saharanpur and then to Rampur Maniharan. Accused Ubed-ur-Rehman also took similar plea that he had gone to Rampur alongwith Atiq-ur-Rehman.

Mohd.Usman also took the plea that he was not present at the time of occurrence and had gone to Rampur. Plea of Mastkin was similar to Munawar Ali.

The accused examined Mool Raj, Assistant Superintendent, Central Jail, Ludhiana as DW1, Dr. Suresh Chander Sood, Chief Section Supervisor, CTO, Ludhiana DW2, Maula Habib Rehman DW3, Harpal Singh, Clerk, Record Room, DC Office, Ludhiana DW4, Atiq-ur-Rehman DW5, Dr. Satish Kumar Mehandiratta DW6.

After considering the evidence, the trial court concluded that case of the prosecution against respondent nos. 5 to 7 stood proved, while case of the prosecution against respondent Nos. 2 to 4 and 8 was not proved.

Briefly stated, the findings recorded by the trial court are as under:-

(i) Nasir Ahmed Bhatti, PW3 fully supported the version of the prosecution which was corroborated by Sayad Sabaudin, PW-1, Abdul Jallaludin, PW2 and Bashir Mohd PW5 who were injured witnesses. Death was proved to be on account of multiple injuries and head injuries which were sufficient to cause death in the ordinary course of nature. Inspector Ranbir Singh, PW-12 Investigating Officer proved the investigation. There was no dispute about identity of three accused who were arrested on the spot.

(ii) The acquitted accused were entitled to benefit of doubt as their names were not mentioned in the original statement but in a supplementary statement Ex.D2. Improvements in the original statement created a doubt about their involvement. Only three accused were arrested on the spot. Thus, presence of other accused was doubtful. No test identification parade was done.

We have heard learned counsel for the petitioner and perused the findings recorded by the trial court.

Even though, no case has been made out for interference in

revision against acquittal, learned counsel for the petitioner has pointed out that Criminal Appeal No.349-MA of 2006 filed by the State is pending. If that is so, there is no ground whatsoever to entertain this revision petition.

The revision petition is dismissed.

(Adarsh Kumar Goel)
Judge

(H.S.Bhalla)
Judge

January 18, 2007
'gs'